LEGAL AND TAX ASPECTS OF PTA
NOTES

1. PTA as a Nonprofit Organization (ERIKA)
   - California Corporations Code Section 5000
   - if the primary purpose of the businesses is for charitable reasons
   - can apply for an exemption from federal and state taxes
     - Internal Revenue Code Section 501(c)(3) governs the federal tax requirements for charities and nonprofit
     - register with the California secretary of state and
     - the California Franchise Tax Board
     - with the Internal Revenue Service

2. PTA as a Public Charity (MARILYN)
   - organized and operated for charitable purposes
   - limited legislative activity
   - no political activity
   - not more than incidental private benefit
   - no private inurement

3. PTA as a Noncommercial Organization (MARILYN)
   - do not make a qualitative judgment
   - do not include comparative language
   - do not permit the sponsor to write the acknowledgment of thanks
   - do not ask your members or the public to buy the products or services of the sponsor
   - do not advertise a product or service
   - do not endorse a product or service
   Permissible Activities
     - Give the corporate sponsor an acknowledgment of thanks in return for the donation.
     - Identify the sponsor’s name, a picture of their product, an address, phone number, web page.
     - Include the logo or slogan of the sponsor for example: “Ford, Where Quality is Job One” or “Ford, Makers of Lincoln Mark VII”
     - Provide free product samples.

Specific Sponsorship Contracts
   - PTA may agree to an exclusive sponsorship
   - PTA may receive payments structured as royalties
   - PTA may not enter into a partnership (share of NET PROFITS) of a business
   - PTA may provide a hypertext link to a sponsor; do not endorse

4. PTA as a Tax-Exempt Organization (CHERYL; ERIKA)
   - the Internal Revenue Service
   - the California State Franchise Tax Board

5. PTA Funding and Revenue (MARILYN)
   - Unrelated Business Income Taxation (UBIT)
     - sales profits from business income: 1) related – exempt; 2) unrelated – taxable
     - receipt of “advertising” income is taxable
     - four ways to avoid UBIT from sales activities at your local PTA
       - sell donated merchandise
       - substantially all help is donated
       - activity is not a “regularly carried on trade or business”
• in furtherance of PTA’s exempt purpose (help children mature: confidence, skills, scouting)

- Qualified Corporate Sponsorships
  - Acceptable – “Acknowledgments” (Good Word)
  - Unacceptable – “Advertising” (Bad Word)

- Gambling
  - allows certain gaming for nonprofits that are exempt under sections 23701(a)(b)(d)(e)(f)(g)(k) or (w); PTA is 23701d
  - register annually with the Division of Gambling Control
  - pay a registration fee of up to $100
  - only one fundraiser per calendar year
  - no more than five (5) hours in duration
  - only four (4) events per location
  - prohibits cash prizes or wagers from being awarded to participants
  - winners may be entitled to a donated prize
  - individual prizes must not exceed a cash value of $500
  - total value of prizes awarded must not exceed a cash value of $5,000
  - at least 90% of the revenue to go directly to the eligible nonprofit organization

- Alcohol
  - Alcohol and public schools
  - Alcohol at a non-school location
  - Auctioning donated bottles of wine
  - Use of PTA funds for alcohol

- SCRIP
  - generally not deductible

- Professional fundraising organizations

6. PTA Responsibilities to Donors (MARILYN)

- The Pension Protection Act of 2006:
  - substantiation of a contributions received
  - record-keeping requirements for donors
  - notification requirement for tax-exempt organizations

- charitable deductions are claimed by donors on their individual tax returns (IRS Form 1040)
- PTA must comply with any substantiation and documentation requirements
- never give a donor specific legal or tax advice on donations
- misleading: "your contribution is tax deductible"
- state that your nonprofit is a Section 501(c)3 nonprofit and their gift may qualify as a charitable deduction for federal income tax purposes

7. PTA as an Employer (MARILYN; TIM)

Anytime PTA pays a person rather than a business there are important considerations and legal requirements.

a. Paying for a School Staff Position (TIM)
  - Gift the designated funds to the school district.
  - Complete and sign a Fiduciary Agreement form.
  - Form signers include the president, treasurer, principal and school district administration.
  - Fiduciary Agreement form
b. **Employee V. Independent Contractor (TIM)**
   - Federal and state laws define workers as either employees or independent contractors.
   - Employment tax requirements are different for each of the two categories of workers.
   - Levels of “control” and “independence” are important factors.
   - The IRS, U.S. Department of Labor, and State of California EDD websites provide guidance for determining whether a worker is an employee or independent contractor.

c. **Paying Independent Contractors (TIM)**
   - Request IRS Form W-9 and a Certificate of Insurance from the worker.
   - Pay for Workers’ Compensation Insurance if needed.
   - Report payments of $600 or more to the IRS using IRS Form 1099-MISC.
   - Send Forms 1099-MISC and 1096 together.
   - Report payments of $600 or more to State of California EDD using EDD Form DE-542.

d. **Paying Employees – State Requirements (MARILYN)**
   - Register with the State of California Employment Development Department (EDD) within 15 days. EDD will send the newly-registered PTA an eight-digit employer account number as well as a New Employer Packet.
   - Report new employees to the New Employee Registry within twenty (20) days of employee’s start-of-work date.
   - Withhold from employee pay Personal Income Tax (PIT) and State Disability Insurance (SDI)
   - Pay Employment Training Tax (ETT) and Unemployment Insurance (UI).
   - Employment Tax payments must be submitted to the EDD with a completed Payroll Tax Deposit form.

e. **Paying Employees – Federal (MARILY)**
   - Withhold Federal Income Tax, SSI and Medicare from employee pay
   - Deposit Federal Income Tax, SSI and Medicare with IRS – electronic deposit is required.
   - File Quarterly Federal Tax Return with the IRS (Form 941)
   - Send Wage and Tax Statement to each employee (Form W-2 and W-3)

8. **PTA and Schools (TIM)**
   - PTA must abide by the school or district’s vendor policy
   - Facilities Use
   - Hold Harmless
   - “Gifts to Schools and Fiduciary Responsibility”
     - PTA members must approve the expenditure with a motion and vote at a general meeting of the membership
     - record in the association minutes of the meeting
     - funds cannot be committed from one year to the next
     - benefit the largest number of students possible
     - significant gifts should be in the form of a donation, presented and accepted by the school board at a school board meeting and recorded in the school board minutes
     - at the next PTA meeting report the school board’s acceptance; record in Minutes

9. **Insurance and Loss Prevention (KATHY)**
   - PTA’s coverage
   - Risk and Loss Prevention
   - Incident reporting
Legal and Tax Aspects of PTA

Workshop Agenda
• Part 1: PTA as a Nonprofit Organization
• Part 2: PTA as a Public Charity
• Part 3: PTA as a Noncommercial Org.
• Part 4: PTA as an Exempt Organization
• Part 5: PTA Funding and Revenue

Workshop Agenda
• Part 6: PTA Responsibilities to Donors
• Part 7: PTA as an Employer
• Part 8: PTA and Schools
• Part 9: PTA Insurance & Loss Prevention
Legal and Tax Aspects of PTA

Part 4
PTA as an Exempt Organization

Legal and Tax Aspects of PTA

Part 5
PTA Funding and Revenue

Legal and Tax Aspects of PTA

Part 6
PTA Responsibilities to Donors
Legal and Tax Aspects of PTA

Part 7
PTA as an Employer

Legal and Tax Aspects of PTA

Part 8
PTA and Schools

Legal and Tax Aspects of PTA

Part 9
Insurance and Loss Prevention
Legal and Tax Aspects of PTA

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